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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,472	02/22/2002	Akito Yoshida	W2K 1077	4326
23504	7590	03/02/2005	EXAMINER	
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			ART UNIT	PAPER NUMBER

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H/A

**Communication Re: Appeal**

Application No.

10/082,472

Examiner

David A. Zarneke

Applicant(s)

YOSHIDA, AKITO

Art Unit

2829

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:(a) ☐ it was not timely filed.(b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).(c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.(d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$\_\_\_\_\_.(e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.(f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:(a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).(b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).(c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$\_\_\_\_\_.**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).**3. ☒ The appeal in this application is DISMISSED because:(a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.(b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.(c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.(d) ☒ other: A restriction is not an appealable matter. Restrictions are only petitionable (37 CFR 1.144). Note that the time to reply continues to run based upon the requirement dated 10/19/04.4. ☐ Because of the dismissal of the appeal, this application:(a) ☐ is abandoned because there are no allowed claims.(b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.(c) ☐ is before the examiner for consideration.**DAVID ZARNEKE  
PRIMARY EXAMINER**

2/22/05

## **DETAILED ACTION**

### **Appeal**

The appeal brief filed 1/31/05 is dismissed because the claims are not twice rejected and because a restriction is a petitionable issue, not an appealable issue (37 *CFR* 1.144).

Therefore, if after reading the below explanation of the restriction, applicant still wishes to challenge the restriction, a petition may be filed.

Further, note that the period for response continues to run based upon the restriction requirement dated 10/19/04.

### ***Election/Restrictions***

In order clarify to the record and clearly state the examiner's position, the restriction of the last office action will be further explained.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1 (PREVIOUS CLAIMS): a die electrically connected to a substrate having flap portions which are coupled to an upper surface of the semiconductor device; and

Species 2 (NEW CLAIMS): a die electrically connected to a substrate using wirebonds, wherein the die and wirebonds are encapsulated, and having flap portions that are folded over onto the upper surface of the encapsulant.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

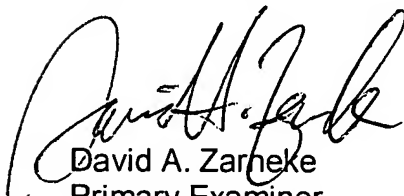
Based upon this restriction, no claims currently remain in the application. Which is why the last office action was held to be non-responsive.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Zarneke whose telephone number is (571)-272-1937. The examiner can normally be reached on M-F 7:30 AM-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Baumeister can be reached on (571)-272-1712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David A. Zarneke  
Primary Examiner  
February 23, 2005

**DAVID ZARNEKE  
PRIMARY EXAMINER**